

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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LARRY ANTHONY GUY,

Petitioner,

**DECISION AND ORDER**  
**No. 11-CV-6171**

-vs-

ERIC H. HOLDER, Attorney General  
of the United States;

MICHAEL PHILIPS, Field Office Director  
Office Director for Detention and  
Removal, Buffalo Field Office;

BUREAU OF IMMIGRATION AND CUSTOMS  
ENFORCEMENT;

DEPARTMENT OF HOMELAND SECURITY; and

MARTIN HERON, Facility Director,  
Buffalo Federal Detention Facility

Respondents.

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## **I. INTRODUCTION**

*Pro se* Petitioner Larry Anthony Guy ("Petitioner") filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2241, challenging his continued administrative custody/detention pending removal. Dkt. No. 1. Respondents have moved to dismiss the petition as moot inasmuch as Petitioner was granted deferred action and released from administrative custody on July 11, 2011. Dkt. No. 7, Motion to Dismiss, Affidavit of Gail Y. Mitchell, Esq., sworn to July 19, 2011, ¶¶ 4, 6 and Ex. A).

## II. DISCUSSION

When a habeas petitioner challenges solely his detention but is subsequently released prior to removal, courts routinely dismiss the petition as moot. See, e.g., Masoud v. Mukasey, No. 08-CV-6345 (CJS) (VEB), 2009 U.S. Dist. LEXIS 124208, 2009 WL 223006, at \*6 (W.D.N.Y. Jan. 5, 2009) ("Because the only relief Masoud sought from this Court was release from DHS custody, his habeas petition became moot upon his release under an order of supervision which terminated his custodial detention.") (citing cases); Singh v. Mule, No. 07 Civ. 6387, 2009 U.S. Dist. LEXIS 5617, 2009 WL 204618, at \*9 (W.D.N.Y. Jan. 27, 2009) (finding habeas petition mooted by Petitioner's removal from United States by DHS where only relief sought in petition was release from detention in administrative custody); Baptiste v. Immigration and Naturalization Service, No. 06 Civ. 0615, 2006 U.S. Dist. LEXIS 77084, 2006 WL 3050884, at \*2 (E.D.N.Y. Oct. 23, 2006) (finding Petitioner's application for habeas relief moot where Petitioner, who challenged only lawfulness of her detention, had been released from ICE custody during pendency of habeas petition); Williams v. Immigration and Naturalization Service, No. 02 Civ. 3814, 2005 U.S. Dist. LEXIS 17260, 2005 WL 1994102, at \*2 (S.D.N.Y. Aug. 18, 2005) ("Here, Williams lacks any interest in the outcome of his suit inasmuch as the relief he has requested - release from detention - has already been afforded to him. His petition is therefore

moot."); Sayavong v. McElroy, No. 00 Civ. 0922, 2003 U.S. Dist. LEXIS 25670, 2003 WL 470576, at \*3 (S.D.N.Y. Jan. 9, 2003) (finding Petitioner's habeas petition moot where only relief sought by petition had previously been granted by INS via Petitioner's release on supervision); Johnson v. Reno, 143 F. Supp. 2d 389, 391 (S.D.N.Y. 2001) ("A habeas corpus petition seeking release from (INS) custody is moot when the petitioner is no longer in (INS) custody."). Accordingly, in light of the fact that the relief requested in the petition has been achieved -- i.e., release from administrative detention pending removal -- the Respondents' motion to dismiss the petition is granted and the petition is dismissed as moot.

### **III. CONCLUSION**

For the foregoing reasons, Respondents' motion to dismiss the petition is granted (Dkt. No. 7) and the petition for a writ of habeas corpus (Dkt. No. 1) is dismissed.

The Court hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this judgment would not be taken in good faith and therefore denies leave to appeal as a poor person. Coppedge v. United States, 369 U.S. 438 (1962).

Petitioner must file any notice of appeal with the Clerk's Office, United States District Court, Western District of New York, within thirty (30) days of the date of judgment in this action. Requests to proceed on appeal as a poor person must be filed with

United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

**IT IS SO ORDERED.**

S/Michael A. Telesca

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HONORABLE MICHAEL A. TELESCA  
United States District Judge

DATED: April 24, 2012  
Rochester, New York